

WISCONSIN TAX BULLETIN

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CORPORATIONS MAY HAVE TO INCREASE REMAINING 1981 DECLARATION PAYMENTS

Corporations which have been making declaration payments for the 1981 taxable year in amounts computed to meet certain exceptions which avoid an addition to the tax penalty for underpayment of estimated tax may have to increase their remaining installment payments. A recent change in Wisconsin law establishes a new minimum payment requirement for purposes of claiming exception 1 or 2.

Exception 1 (s. 71.22 (10) (a)) provides that the addition to the tax penalty will not be due if installment payments for 1981 equal or exceed the tax shown on the 1980 return. Exception 2 (s. 71.22 (10) (b)) provides no penalty is due if installment payments for 1981 equal or exceed an amount determined using the tax rates applicable to 1981, but otherwise on the basis of the facts and income shown on the 1980 return and the law applicable for 1980.

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The new law establishes a minimum installment payment requirement to claim exception 1 or 2. To qualify for exception 1 or 2, a corporation's installment payments of 1981 taxes must be the larger of (a) the amounts required under exception 1 or 2, or (b) 60% of the actual tax liability for 1981. The 60% must be prorated among the appropriate installment periods according to the schedule which appears below.

For example, assuming a corporation which reports on the calendar year basis computes amounts under the 60% requirement that are larger than the amounts required under exceptions 1 or 2, it would be required to pay 15% of its 1981 net tax liability by September 15, 1981, the due date of the third installment, and 60% of its 1981 net tax liability by January 15, 1982, the due date of the fourth installment.

A special notice alerting corporations to this change in law was included with declaration installment payment notices which the department mailed in August and September and it will also be included in notices mailed this month.

Percentage of 1981 Tax to be Paid by Installment Due Dates Under 60% Payment Requirement

Month in Which Tax Year Ends	Installment Number			
	1	2	3	4
July, 1981 - October, 1981	0	0	0	15%
November, 1981	0	0	15%	30%
December, 1981 - January, 1982	0	0	15%	60%
February, 1982	0	15%	30%	60%
March, 1982 - April, 1982	0	15%	37.5%	60%
May, 1982 - June, 1982	15%	30%	45%	60%

FEDERAL TAX LAWS ENACTED IN 1981 (EXCEPT DEPRECIATION CHANGES) DO NOT APPLY FOR WISCONSIN

With the exception of the new depreciation provisions, federal tax laws enacted during 1981 may not be used in determining Wisconsin taxable income for 1981. This will result in certain income and deduction items being different on 1981 Wisconsin and federal income tax returns. As in past years, Wisconsin Schedule I should be used to adjust for these differences.

The following is a listing of changes which were enacted as part of the Economic Recovery Tax Act of 1981 and are effective for federal purposes for part or all of the 1981 taxable year. These changes will not apply for Wisconsin for 1981.

- Residence replacement period extended for deferring gains (Act Sec. 122a)
- Exclusion for gain on sale of residence by person over 55 increased to \$125,000 (Act Sec. 123)
- Itemized deduction for adoption expenses (Act Sec. 125)
- 7% imputed interest on installment sales of real estate between related parties (Act Sec. 126)
- Rules relating to state legislator's away from home travel expenses (Act Sec. 127)
- Incentive stock option provisions (Act Sec. 251)
- Limitation for amortizing low-income housing rehabilitation expenditures increased (Act Sec. 264)
- Limitation on deduction of non-cash gifts by employers to employees (Act Sec. 265)
- Exclusion of savings certificate interest (Act Sec. 301)
- Rollover into IRA of redemption proceeds from U.S. bonds distributed under bond purchase plans (Act Sec. 313)
- Removal of ban on HR10 plan contributions after termination of prior plan (Act Sec. 314 (a))
- Treatment of gains and losses from regulated futures contracts (Act Sections 501, 503 and 509)
- Capitalization of interest relating to commodity investments (Act Sec. 502)

- Treatment of government bonds issued at discount as a capital asset (Act Sec. 505)
- Identification of dealer held securities as capital assets (Act Sec. 506)
- Capital gain and loss treatment for proceeds from dispositions which are not a sale (Act Sec. 507)
- Capital gain treatment for gain from sale of stock in a foreign investment company (Act Sec. 832)

The 1981 Wisconsin Schedule I will contain more detailed information about these new federal tax laws which apply for federal purposes for 1981 but not for Wisconsin. Schedule I will be available at department offices in late December, 1981.

Wisconsin law for 1981 permits individuals to use the new federal cost recovery (depreciation) provisions enacted as part of the Economic Recovery Tax Act of 1981.

NEW 1981 INCOME TAX BRACKETS

Section 71.09 (2) of the Wisconsin Statutes requires that the income tax brackets for individuals be indexed (adjusted) each year to reflect the percentage change in the consumer price index from June of the preceding year to June of the current year. The specific index to be used is the U.S. consumer price index for all urban consumers, U.S. city average. For 1981 the indexing rate is 9.6%. The tax rates have not changed for 1981. The new brackets and the rates which apply to each bracket for 1981 are as follows:

Income Brackets	Tax Rate
0 - 3,600	3.4%
3,600 - 7,200	5.2
7,200 - 10,900	7.0
10,900 - 14,500	8.2
14,500 - 18,100	8.7
18,100 - 24,100	9.1
24,100 - 48,200	9.5
48,200 and over	10.0

As indicated in another article in this issue, administrative rule Tax 2.081 is being revised to reflect the new tax brackets.

1982 DECLARATION OF ESTIMATED TAX PROCEDURES CHANGE FOR INDIVIDUALS

Effective for the taxable year 1982, the department will be changing the manner in which declaration forms are distributed to individuals. Under the new system, individuals will receive only a single mailing of declaration forms each year. The mailing will be made in January and it will provide all declaration forms (including 4 pre-addressed payment vouchers) and instructions needed for the taxable year.

In prior years, individuals received two mailings of declaration forms. First, they were mailed the Form 1-ES (Wisconsin Declaration of Estimated Income Tax) which included payment voucher number 1. After payment voucher 1 was filed (and before the next installment due date) the department mailed the remaining payment vouchers needed for the year.

Declaration forms for 1982 will automatically be mailed to all individuals who filed a declaration for 1981. Other persons needing declaration forms should contact the nearest Department of Revenue office after January 15, 1982.

NEW ISI & E DIVISION RULES AND RULE AMENDMENTS IN PROCESS

Listed below, under parts A, B and C, are proposed new administrative rules and amendments to existing rules that are currently in the rule adoption process. The rules are shown at their stage in the process as of September 15, 1981. Part D lists new rules and amendments which have been adopted in 1981.

A. Rules At Legislative Council Rules Clearinghouse

2.081 (3)	Indexed income tax rate schedule for taxable year 1981 - new rule
2.39	Apportionment method - amendment
2.40	Nonapportionable income - repealed and recreated
11.53	Temporary events - new rule
11.71	Automatic data processing - new rule

B. Rules At Legislative Standing Committees

- 11.56 Printing industry
-new rule

C. Rules Approved By Legislature But Not Yet Effective

- 11.12 Farming, agriculture, horticulture and floriculture
- amendment

- 11.16 Common or contract carriers
- amendment

- 11.40 Exemption of machines and processing equipment
- amendment

D. Rules Adopted In 1981

- 1.11 Requirements for examination of returns (8/1/81)
- amendment

- 2.081 Indexed income tax rate schedule (5/1/81)
- new rule

- 2.31 Taxation of personal services income of nonresident professional athletes (1/1/81)
- new rule

- 2.505 Apportionment of net business income of interstate professional sports clubs (1/1/81)
- new rule

- 2.955 Credit for income taxes paid to other states (2/1/81)
- amendment

- 4.53 Certificate of authorization (1/1/81)
- new rule

- 8.87 Intoxicating liquor tied-house prohibitions (6/1/81)
- new rule

- 9.08 Cigarette sales to and by Indians (8/1/81)
- new rule

- 11.83 Motor vehicles (7/1/81)
- amendment

- 11.88 Mobile homes (1/1/81)
- new rule

- 11.925 Sales and use tax security deposits (8/1/81)
- new rule

BULKS ORDERS OF TAX FORMS

In early October, the department will mail out the order blank (Form P-744) which practitioners and other persons or organizations should use to request bulk orders of 1981 Wisconsin income tax forms. As in past years, professional tax preparers are subject to a handling charge on orders which they submit. No charge is made for forms which will be used for distribution to the general public (for example, in a bank, library or post office).

In view of increasing paper and printing costs, every person ordering forms is urged to determine their needs as accurately as possible. Orders should be placed as early as possible after you receive the order blank. By receiving the orders early, the department can better identify possible shortages of specific forms.

This year's mailing list for bulk order blanks contains the names of all persons and organizations who placed orders for 1980 forms. If you are not on this mailing list and do not receive a Form P-744, you may request the bulk order blank by contacting any department office or by writing to the Wisconsin Department of Revenue, Central Services Section, Post Office Box 8903, Madison, WI 53708.

REMINDER! EMPLOYERS MUST SUBMIT COPIES OF CERTAIN EMPLOYEE WITHHOLDING EXEMPTION CERTIFICATES TO THE DEPARTMENT

Wisconsin law requires employers to submit copies of employee withholding exemption certificates to the department whenever they are required to provide such information to the Internal Revenue Service (IRS). The copies must be submitted to the department within 15 days after they are filed with IRS.

For both federal and Wisconsin purposes employers are required to submit copies of any employee's withholding exemption certificate if: 1) the number of exemptions claimed is 10 or more, or 2) the employee is claiming complete exemption from withholding and he or she earns more than \$200 per week.

REPORT ON LITIGATION

(This portion of the WTB summarizes recent significant Tax Appeals

Commission and Wisconsin court decisions. The last paragraph of each decision indicates whether the case has been appealed to a higher court.)

The following decisions are included:

Income and Franchise Taxes

Hydro-Flo Products, Inc. vs. Wisconsin Department of Revenue

Sales/Use Taxes

Wisconsin Department of Revenue vs. H. Derksen & Sons Co., Inc.

Jay Advertising, Inc. vs. Wisconsin Department of Revenue

Leicht Transfer and Storage Company, Inc. vs. Wisconsin Department of Revenue

North-West Services Corporation and North-West Telephone Company vs. Wisconsin Department of Revenue

Wisconsin Department of Revenue vs. J.C. Penney Company, Inc.

Delmore and Lawrence Peterson (d/b/a Peterson Brothers) vs. Wisconsin Department of Revenue

Carl Schroeder, Jr. vs. Wisconsin Department of Revenue

Shopper Advertiser, Inc., d/b/a Shopper Advertiser - Walworth County, and Shopping News, Inc., d/b/a Greater Beloit Shopping News vs. Wisconsin Department of Revenue

Excise Taxes

State of Wisconsin vs. Black Steer Steak House, Inc.

Withholding

William A. Mitchell vs. Secretary of Revenue, Mark E. Musolf, and Chief, Central Compliance Section, W. H. Wescott; and Automation Engineering Company, Inc., AA Electric Division, 1220 Highway 143, Cedarburg, WI 53012, General Manager, Neil Stein

INCOME AND FRANCHISE TAXES

Hydro-Flo Products, Inc. vs. Wisconsin Department of Revenue (Wisconsin Tax Appeals Commission, July 8, 1981). Hydro-Flo Prod-